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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,786	12/15/2000	Kevin McCombe	40101/01101	3798

30636 7590 05/19/2005
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EXAMINER

BAROT, BHARAT

ART UNIT PAPER NUMBER

2155

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/738,786

Applicant(s)

MCCOMBE ET AL.

Examiner

Bharat N. Barot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

RESPONSE TO AMENDMENT

1. Claims 1-11 remain for further examination. Applicants' arguments with respect to claims 1-11 filed on January 12, 2005 have been fully considered.

The old rejection maintained

2. The rejection is respectfully maintained as set forth in the last Office Action mailed on October 13, 2004. Applicants' arguments with respect to claims 1-11 have been fully considered but they are deemed to be moot and old rejection maintained.

Claim Rejections - 35 USC § 103(a)

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morwood (U.S. Patent No. 6,470,346) in view of Ferguson (U.S. Patent No. 6,769,019).

5. As to claim 1, Morwood disclose a system for managing a plurality of client processes (see abstract; figures 1-2; and column 2 lines 33-67), comprising: a client task within which the client processes will be executed (column 1 lines 50-63; column 2 lines 33-67; and column 14 line 64 to column 15 line 52); and a manager task running at a higher priority than the client task, the manager task queuing the client processes into the client task in priority order (figures 2-3; column 4 lines 15-22; and column 8 line 16 to column 9 line 28).

However, Morwood does not explicitly disclose that the manager task kills the client task when a current one of the client processes is not completed within a predetermined time period.

Ferguson explicitly discloses that the manager task kills the client task when a current one of the client processes is not completed within a predetermined time period (figures 10-11 and 15; column 11 line 63 to column 12 line 7; column 13 lines 17-38; column 14 lines 11-42; and column 18 lines 1-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Ferguson as stated above with the system of Morwood for managing a plurality of client processes because it would have enabled a client process to control network communication traffic, maximized network bandwidth, and reduces or eliminated time delay.

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6. As to claims 2-3, Morwood disclose that the manager task restarts the client task and queues a next one of the client processes into the client task or requeues the current client process into the client task (figures 3, 11, and 14; column 9 lines 9-21; column 12 lines 16-37; and column 13 lines 24-47).

7. As to claims 4-5, Morwood disclose that the client task sends a response to the manager task indicating the execution of the current client process is complete; and the manager task, when receiving the response from the client task, queues a next one of the client processes into the client task (column 9 lines 4-21; column 10 lines 51-64; and column 12 lines 6-37).

8. As to claims 6-10, they are also rejected for the same reasons set forth to rejecting claims 1-5 above, since claims 6-10 are merely a method of operation for the apparatus defined in the claims 1-5.

9. As to claim 11, they are also rejected for the same reasons set forth to rejecting claim 1 above, since claim 11 is merely a computer-readable storage medium storing a set of instructions to manage the apparatus defined in the claim 1.

Response to Arguments

10. Applicant's arguments with respect to claims 1-11 filed on January 12, 2005 have been fully considered but they are not deemed to be persuasive for the claims 1-11.

11. In the remarks, the applicant argues that:

Argument: There is no teaching or suggestion in the Ferguson reference that the task is killed if it is not executed within a predetermined time period.

Response: The argument toward rejection is not persuasive and rejection stands.

Ferguson explicitly discloses that the manager task issues a network activity (checks in the loop for higher priority requests) if the interval exceeds the threshold (predetermined time interval); and if it detects any higher priority request, the ongoing network activity is suspended and the higher priority request is served (figures 6-7; and column 13 lines 17-38), which implies that the manager task kills the client task when a current one of the client processes is not completed within a predetermined time period, rendering the rejection proper, and rejection stands.

Argument: Morwood and Ferguson, either alone or in combination, do not teach or suggest the claimed limitations of the claim 1.

Response: The argument toward rejection is not persuasive and rejection stands.

Morwood explicitly discloses that the client process depend on the manager process and the manager process working independently and controlling the client process, which implies that the manager task running at a higher priority than the client task (figure 2; and column 8 line 16 to column 9 line 8), the manager task queuing the client processes into the client task in priority order (figure 3; and column 9 lines 9-28) and Ferguson explicitly discloses that the manager task issues a network activity (checks in the loop for higher priority requests) if the interval exceeds the threshold (predetermined time interval); and if it detects any higher priority request, the ongoing network activity is suspended and the higher priority request is served (figures 6-7; and column 13 lines 17-38), which implies that the manager task kills the client task when a current one of the client processes is not completed within a predetermined time period; therefore, the combination of Morwood and Ferguson explicitly teaches or suggests the claimed limitations of the claim 1.

12. This action is made final. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

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Contact Information

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bharat Barot whose telephone number is (571) 272-3979. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam, Hosain, can be reached at (571) 272-3978.

Any inquiry of general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-3900.

Patent Examiner Bharat Barot

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May 04, 2005


BHARAT BAROT
PRIMARY EXAMINER